

## CHAPTER 330

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**ELECTIONS**

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## SENATE BILL 19-232

BY SENATOR(S) Foote, Bridges, Court, Donovan, Fenberg, Fields, Gonzales, Pettersen, Rodriguez, Story, Winter;  
also REPRESENTATIVE(S) Weissman, Arndt, Duran, Froelich, Galindo, Gonzales-Gutierrez, Jackson, Kennedy, Kipp, Lontine,  
Mullica, Roberts, Singer, Sirota, Snyder, Sullivan, Valdez A.

**AN ACT****CONCERNING THE CODIFICATION OF THE RULES OF THE SECRETARY OF STATE ADDRESSING THE PROCEDURES FOR THE ENFORCEMENT OF STATE LAWS GOVERNING CAMPAIGN FINANCE.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, **add** 1-45-111.7 as follows:

**1-45-111.7. Campaign finance complaints - initial review - curing violations - investigation and enforcement - hearings - advisory opinions - document review - collection of debts resulting from campaign finance penalties - definitions.** (1) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ARTICLE XXVIII" MEANS ARTICLE XXVIII OF THE STATE CONSTITUTION.

(b) "DEPUTY SECRETARY" MEANS THE DEPUTY SECRETARY OF STATE APPOINTED PURSUANT TO SECTION 24-21-105 OR THE DEPUTY SECRETARY'S DESIGNEE.

(c) "DIVISION" MEANS THE DIVISION WITHIN THE OFFICE OF THE SECRETARY RESPONSIBLE FOR ADMINISTERING THE STATE'S LAWS GOVERNING CAMPAIGN AND POLITICAL FINANCE.

(d) "HEARING OFFICER" MEANS A PERSON AUTHORIZED TO CONDUCT A HEARING UNDER SECTION 24-4-105 (3).

(e) "RULES" MEANS THE RULES OF THE SECRETARY CONCERNING CAMPAIGN AND POLITICAL FINANCE.

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

(f) "SECRETARY" MEANS THE SECRETARY OF STATE OR THE SECRETARY'S DESIGNATE.

(2) **Filing complaints.** (a) ANY PERSON WHO BELIEVES THAT A VIOLATION HAS OCCURRED OF ARTICLE XXVIII, THIS ARTICLE 45, OR THE RULES MAY FILE A COMPLAINT WITH THE SECRETARY.

(b) A COMPLAINT MUST BE FILED NO LATER THAN ONE HUNDRED EIGHTY DAYS AFTER THE DATE ON WHICH THE COMPLAINANT EITHER KNEW OR SHOULD HAVE KNOWN, BY THE EXERCISE OF REASONABLE DILIGENCE, OF THE ALLEGED VIOLATION.

(c) ANY COMPLAINT MUST BE FILED IN WRITING AND SIGNED BY THE COMPLAINANT ON THE FORM PROVIDED BY THE SECRETARY. THE COMPLAINT MUST IDENTIFY ONE OR MORE RESPONDENTS AND INCLUDE THE INFORMATION REQUIRED TO BE PROVIDED ON THE FORM.

(d) UPON RECEIPT OF A COMPLAINT, THE DIVISION SHALL NOTIFY THE RESPONDENT OF THE COMPLAINT BY E-MAIL OR BY REGULAR MAIL IF E-MAIL IS UNAVAILABLE.

(e) THE DIVISION SHALL FORWARD ANY COMPLAINT MADE AGAINST A CANDIDATE FOR SECRETARY OR THE SECRETARY TO THE DEPARTMENT OF LAW FOR THE REVIEW OF THE COMPLAINT BY THE ATTORNEY GENERAL TO ACT ON BEHALF OF THE DIVISION IN ACCORDANCE WITH APPLICABLE REQUIREMENTS OF THIS SECTION.

(3) **Initial review.** (a) THE DIVISION SHALL CONDUCT AN INITIAL REVIEW OF A COMPLAINT FILED UNDER SUBSECTION (2) OF THIS SECTION TO DETERMINE WHETHER THE COMPLAINT:

(I) WAS TIMELY FILED UNDER SUBSECTION (2)(b) OF THIS SECTION;

(II) SPECIFICALLY IDENTIFIES ONE OR MORE VIOLATIONS OF ARTICLE XXVIII, THIS ARTICLE 45, OR THE RULES; AND

(III) ALLEGES SUFFICIENT FACTS TO SUPPORT A FACTUAL AND LEGAL BASIS FOR THE VIOLATIONS OF LAW ALLEGED IN THE COMPLAINT.

(b) WITHIN TEN BUSINESS DAYS OF RECEIVING A COMPLAINT, THE DIVISION SHALL TAKE ONE OR MORE OF THE ACTIONS SPECIFIED IN THIS SUBSECTION (3)(b):

(I) IF THE DIVISION MAKES AN INITIAL DETERMINATION THAT THE COMPLAINT WAS NOT TIMELY FILED, HAS NOT SPECIFICALLY IDENTIFIED ONE OR MORE VIOLATIONS OF ARTICLE XXVIII, THIS ARTICLE 45, OR THE RULES, OR DOES NOT ASSERT FACTS SUFFICIENT TO SUPPORT A FACTUAL OR LEGAL BASIS FOR AN ALLEGED VIOLATION, THE DIVISION SHALL PREPARE AND FILE WITH THE DEPUTY SECRETARY A MOTION TO DISMISS THE COMPLAINT. THE DEPUTY SECRETARY SHALL MAKE A DETERMINATION ON THE MOTION TO DISMISS WITHIN FIVE BUSINESS DAYS, WHICH MUST BE PROVIDED TO THE COMPLAINANT AND THE RESPONDENT BY E-MAIL OR BY REGULAR MAIL IF E-MAIL IS UNAVAILABLE. IF THE DEPUTY SECRETARY DENIES THE MOTION, THE DIVISION SHALL DETERMINE WHETHER TO CONDUCT A REVIEW UNDER SUBSECTION (3)(b)(II) OR (3)(b)(III) OF THIS SECTION. THE FINAL DETERMINATION BY THE

DEPUTY SECRETARY ON THE MOTION TO DISMISS CONSTITUTES FINAL AGENCY ACTION AND IS SUBJECT TO JUDICIAL REVIEW BY A STATE DISTRICT COURT UNDER SECTION 24-4-106.

(II) IF THE DIVISION MAKES AN INITIAL DETERMINATION THAT THE COMPLAINT ALLEGES ONE OR MORE CURABLE VIOLATIONS AS ADDRESSED IN SUBSECTION (4) OF THIS SECTION, THE DIVISION SHALL NOTIFY THE RESPONDENT AND PROVIDE THE RESPONDENT AN OPPORTUNITY TO CURE THE VIOLATIONS.

(III) IF THE DIVISION MAKES AN INITIAL DETERMINATION THAT THE COMPLAINT HAS SPECIFICALLY IDENTIFIED ONE OR MORE VIOLATIONS OF ARTICLE XXVIII, THIS ARTICLE 45, OR THE RULES, AND HAS ALLEGED FACTS SUFFICIENT TO SUPPORT A FACTUAL OR LEGAL BASIS FOR EACH ALLEGED VIOLATION, AND THAT EITHER A FACTUAL FINDING OR A LEGAL INTERPRETATION IS REQUIRED, THE DIVISION SHALL CONDUCT ADDITIONAL REVIEW UNDER SUBSECTION (5) OF THIS SECTION WITHIN THIRTY DAYS TO DETERMINE WHETHER TO FILE A COMPLAINT WITH A HEARING OFFICER.

(4) **Curing violations.** (a) UPON THE DIVISION'S INITIAL DETERMINATION THAT A COMPLAINT ALLEGES A FAILURE TO FILE OR OTHERWISE DISCLOSE REQUIRED INFORMATION, OR ALLEGES ANOTHER CURABLE VIOLATION, THE DIVISION SHALL NOTIFY THE RESPONDENT BY E-MAIL OR BY REGULAR MAIL IF E-MAIL IS UNAVAILABLE OF THE CURABLE DEFICIENCIES ALLEGED IN THE COMPLAINT.

(b) THE RESPONDENT HAS TEN BUSINESS DAYS FROM THE DATE THE NOTICE IS E-MAILED OR MAILED TO FILE AN AMENDMENT TO ANY RELEVANT REPORT THAT CURES ANY DEFICIENCIES SPECIFIED IN THE NOTICE.

(c) THE RESPONDENT SHALL PROVIDE THE DIVISION WITH NOTICE OF THE RESPONDENT'S INTENT TO CURE ON THE FORM PROVIDED BY THE SECRETARY AND INCLUDE A COPY OF ANY AMENDMENTS TO ANY REPORT CONTAINING ONE OR MORE DEFICIENCIES.

(d) UPON RECEIPT OF THE RESPONDENT'S NOTICE OF AN INTENT TO CURE, THE DIVISION MAY ASK THE RESPONDENT TO PROVIDE ADDITIONAL INFORMATION AND MAY GRANT THE RESPONDENT AN EXTENSION OF TIME TO FILE AN AMENDED NOTICE OF INTENT TO CURE IN ORDER TO RESPOND TO ANY SUCH REQUEST.

(e) (I) AFTER THE PERIOD FOR CURE HAS EXPIRED, THE DIVISION SHALL DETERMINE WHETHER THE RESPONDENT HAS CURED ANY VIOLATION ALLEGED IN THE COMPLAINT AND, IF SO, WHETHER THE RESPONDENT HAS SUBSTANTIALLY COMPLIED WITH ITS LEGAL OBLIGATIONS UNDER ARTICLE XXVIII, THIS ARTICLE 45, AND THE RULES IN ACCORDANCE WITH SUBSECTION (4)(f) OF THIS SECTION.

(II) IF THE DIVISION DETERMINES THAT THE RESPONDENT HAS SUBSTANTIALLY COMPLIED WITH ITS LEGAL OBLIGATIONS, THE DIVISION SHALL PREPARE AND FILE WITH THE DEPUTY SECRETARY A MOTION TO DISMISS THE COMPLAINT. THE MOTION MUST BE ACCOMPANIED BY A DRAFT ORDER SPECIFYING THE MANNER IN WHICH THE RESPONDENT HAS SATISFIED THE FACTORS SPECIFIED IN SUBSECTION (4)(f) OF THIS SECTION. THE DEPUTY SECRETARY SHALL MAKE A DETERMINATION ON THE MOTION TO DISMISS, WHICH MUST BE PROVIDED TO THE COMPLAINANT AND THE RESPONDENT

BY E-MAIL OR BY REGULAR MAIL IF E-MAIL IS UNAVAILABLE. IF THE DEPUTY SECRETARY DENIES THE MOTION, THE DIVISION SHALL DETERMINE WHETHER TO CONDUCT A REVIEW UNDER SUBSECTION (3)(b)(II) OR (3)(b)(III) OF THIS SECTION. THE DETERMINATION BY THE DEPUTY SECRETARY UNDER THIS SUBSECTION (4)(e)(II) IS FINAL AGENCY ACTION AND IS SUBJECT TO JUDICIAL REVIEW BY A STATE DISTRICT COURT UNDER SECTION 24-4-106.

(III) IF THE DIVISION DETERMINES THAT THE RESPONDENT HAS FAILED TO SUBSTANTIALLY COMPLY UNDER SUBSECTION (4)(f) OF THIS SECTION, THE DIVISION SHALL CONDUCT AN ADDITIONAL REVIEW UNDER SUBSECTION (5)(a) OF THIS SECTION TO DETERMINE WHETHER TO FILE THE COMPLAINT WITH A HEARING OFFICER.

(f) IN DETERMINING WHETHER AN ENTITY SUBSTANTIALLY COMPLIED WITH ITS LEGAL OBLIGATIONS UNDER ARTICLE XXVIII, THIS ARTICLE 45, OR THE RULES THE DIVISION MUST CONSIDER:

(I) THE EXTENT OF THE RESPONDENT'S NONCOMPLIANCE;

(II) THE PURPOSE OF THE PROVISION VIOLATED AND WHETHER THAT PURPOSE WAS SUBSTANTIALLY ACHIEVED DESPITE THE NONCOMPLIANCE; AND

(III) WHETHER THE NONCOMPLIANCE MAY PROPERLY BE VIEWED AS AN INTENTIONAL ATTEMPT TO MISLEAD THE ELECTORATE OR ELECTION OFFICIALS.

(g) IF THE DIVISION DETERMINES THAT THE RESPONDENT FAILED TO CURE ANY ALLEGED DEFICIENCY, THE DIVISION SHALL CONDUCT AN ADDITIONAL REVIEW UNDER SUBSECTION (5)(a) OF THIS SECTION TO DETERMINE WHETHER TO FILE A COMPLAINT WITH A HEARING OFFICER.

**(5) Investigations and enforcement.** (a) (I) THE DIVISION SHALL INVESTIGATE EACH COMPLAINT THAT WAS NOT DISMISSED DURING EITHER ITS INITIAL REVIEW OR BY MEANS OF THE CURE PROCEEDINGS IN ACCORDANCE WITH SUBSECTION (3) OR (4) OF THIS SECTION TO DETERMINE WHETHER TO FILE A COMPLAINT WITH A HEARING OFFICER. THE DIVISION MAY ALSO INITIATE AN INVESTIGATION UNDER SUBSECTION (7)(b) OF THIS SECTION.

(II) FOR THE PURPOSE OF AN INVESTIGATION RELATING TO A COMPLAINT FILED UNDER SUBSECTION (2)(a) OF THIS SECTION OR AN INVESTIGATION INITIATED BY THE DIVISION UNDER SUBSECTION (7)(b) OF THIS SECTION, THE DIVISION MAY REQUEST THE PRODUCTION OF ANY DOCUMENTS OR OTHER TANGIBLE THINGS THAT ARE BELIEVED TO BE RELEVANT OR MATERIAL TO THE INVESTIGATION, AND SHALL ESTABLISH THE RELEVANCE AND MATERIALITY IN WRITING. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, DOCUMENTS OR OTHER TANGIBLE THINGS PROVIDED TO THE DIVISION DURING THE COURSE OF AN INVESTIGATION UNDER THIS SUBSECTION (5) ARE NOT SUBJECT TO INSPECTION OR COPYING UNDER THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, DOCUMENTS OR OTHER TANGIBLE THINGS PROVIDED TO THE DIVISION DURING THE COURSE OF AN INVESTIGATION UNDER THIS SUBSECTION (5) AND OTHER MATERIALS PREPARED OR ASSEMBLED TO ASSIST THE SECRETARY'S DESIGNEE IN REACHING A DECISION ARE WORK PRODUCT AS DEFINED IN SECTION 24-72-202 (6.5)(a) AND ARE NOT PUBLIC RECORDS SUBJECT TO INSPECTION UNDER

## PART 2 OF ARTICLE 72 OF TITLE 24.

(III) IF THE DIVISION RECEIVES A PERSON'S MEMBERSHIP LIST OR DONOR LIST DURING THE COURSE OF THE DIVISION'S INITIAL REVIEW UNDER SUBSECTION (3) OF THIS SECTION, INVESTIGATION UNDER THIS SUBSECTION (5), OR THE CURE PROCESS, INCLUDING THE DETERMINATION OF SUBSTANTIAL COMPLIANCE, AS DESCRIBED IN SUBSECTION (4) OF THIS SECTION, THE DIVISION SHALL NOT DISCLOSE SUCH LIST OR THE IDENTITY OF ANY MEMBER OR DONOR TO ANY PERSON. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY SUCH MEMBERSHIP OR DONOR LIST IS NOT A PUBLIC RECORD SUBJECT TO INSPECTION, COPYING, OR ANY OTHER FORM OF REPRODUCTION UNDER PART 2 OF ARTICLE 72 OF TITLE 24.

(IV) THE DIVISION SHALL DETERMINE WHETHER IT WILL FILE A COMPLAINT WITH A HEARING OFFICER WITHIN THIRTY DAYS AFTER INITIATING AN INVESTIGATION. IF THE DIVISION MAKES A DETERMINATION THAT A COMPLAINT SHOULD NOT BE FILED WITH A HEARING OFFICER BECAUSE THERE IS NOT SUFFICIENT INFORMATION TO SUPPORT THE ALLEGATIONS CONTAINED IN THE COMPLAINT OR FOR ANY OTHER REASON, IT SHALL PREPARE AND FILE WITH THE DEPUTY SECRETARY A MOTION TO DISMISS THE COMPLAINT. THE DEPUTY SECRETARY SHALL MAKE A DETERMINATION ON THE MOTION TO DISMISS WITHIN THIRTY-FIVE DAYS OF THE INITIAL DETERMINATION OF THE DIVISION UNDER THIS SUBSECTION (5)(a)(IV), OR THE INITIATION OF AN INVESTIGATION BY THE DIVISION UNDER SUBSECTION (7)(b) OF THIS SECTION, WHICH MUST BE PROVIDED TO THE COMPLAINANT AND THE RESPONDENT BY E-MAIL OR BY REGULAR MAIL IF E-MAIL IS UNAVAILABLE. IF THE DEPUTY SECRETARY DENIES THE MOTION, THE DIVISION HAS FOURTEEN BUSINESS DAYS TO FILE A COMPLAINT WITH A HEARING OFFICER UNDER THIS SUBSECTION (5).

(V) IF THE DIVISION FILES A COMPLAINT WITH A HEARING OFFICER UNDER THIS SUBSECTION (5), IT IS RESPONSIBLE FOR CONDUCTING SUCH DISCOVERY AS MAY BE NECESSARY FOR EFFECTIVELY PROSECUTING THE COMPLAINT, SUPPLEMENTING OR AMENDING THE COMPLAINT WITH SUCH ADDITIONAL OR ALTERNATIVE CLAIMS OR ALLEGATIONS AS MAY BE SUPPORTED BY THE DIVISION'S INVESTIGATION, AMENDING THE COMPLAINT TO STRIKE ALLEGATIONS OR CLAIMS THAT ARE NOT SUPPORTED BY THE DIVISION'S INVESTIGATION, AND IN ALL OTHER RESPECTS PROSECUTING THE COMPLAINT.

(b) A COMPLAINANT OR ANY OTHER NONRESPONDENT IS NOT A PARTY TO THE DIVISION'S INITIAL REVIEW, CURE PROCEEDINGS, INVESTIGATION, OR ANY PROCEEDINGS BEFORE A HEARING OFFICER AS DESCRIBED IN THIS SECTION. A COMPLAINANT MAY SEEK PERMISSION FROM THE HEARING OFFICER TO FILE A BRIEF AS AN AMICUS CURIAE. A PERSON'S STATUS AS A COMPLAINANT IS NOT SUFFICIENT TO ESTABLISH THAT HE OR SHE MAY BE AFFECTED OR AGGRIEVED BY THE SECRETARY'S ACTION ON THE COMPLAINT. TO THE EXTENT THIS SUBSECTION (5)(b) CONFLICTS IN ANY RESPECT WITH SECTION 24-4-105 OR 24-4-106, THIS SUBSECTION (5)(b) CONTROLS. A COMPLAINANT MAY ALSO SEEK JUDICIAL REVIEW BY A STATE DISTRICT COURT OF A FINAL AGENCY ACTION UNDER SECTION 24-4-106.

(6) **Conduct of hearings.** (a) ANY HEARING CONDUCTED BY A HEARING OFFICER UNDER THIS SECTION MUST BE IN ACCORDANCE WITH SECTION 24-4-105; EXCEPT THAT A HEARING OFFICER SHALL SCHEDULE A HEARING WITHIN THIRTY DAYS OF THE FILING OF THE COMPLAINT, WHICH HEARING MAY BE CONTINUED UPON THE MOTION

OF ANY PARTY FOR UP TO THIRTY DAYS OR A LONGER EXTENSION OF TIME UPON A SHOWING OF GOOD CAUSE.

(b) ANY INITIAL DETERMINATION MADE BY A HEARING OFFICER MUST BE MADE IN ACCORDANCE WITH SECTION 24-4-105 AND IS SUBJECT TO REVIEW BY THE DEPUTY SECRETARY. THE FINAL AGENCY DECISION IS SUBJECT TO REVIEW UNDER SECTION 24-4-106.

(7) **Document review.** (a) IN ADDITION TO ANY OTHER POWERS AND DUTIES IT POSSESSES UNDER LAW, THE DIVISION MAY ALSO REVIEW ANY DOCUMENT THE SECRETARY RECEIVES FOR FILING UNDER ARTICLE XXVIII, THIS ARTICLE 45, OR THE RULES.

(b) IN CONNECTION WITH THE REVIEW OF OTHER AVAILABLE INFORMATION REGARDING A POTENTIAL VIOLATION UNDER THIS SUBSECTION (7):

(I) IF THE DIVISION DETERMINES THAT A PERSON VIOLATED OR POTENTIALLY VIOLATED ANY OF THE PROVISIONS OF ARTICLE XXVIII, THIS ARTICLE 45, OR THE RULES, THE DIVISION SHALL EITHER NOTIFY THE PERSON OF HIS OR HER OPPORTUNITY TO CURE THE IDENTIFIED DEFICIENCIES IN ACCORDANCE WITH SUBSECTION (4) OF THIS SECTION OR NOTIFY THE PERSON THAT THE DIVISION IS INITIATING AN INVESTIGATION UNDER SUBSECTION (5) OF THIS SECTION. THE DIVISION SHALL SEND THE NOTIFICATION BY E-MAIL OR BY REGULAR MAIL IF E-MAIL IS UNAVAILABLE.

(II) IF THE DIVISION INITIATES AN INVESTIGATION OR FILES A COMPLAINT WITH A HEARING OFFICER IN CONNECTION WITH ITS REVIEW, THE PROCEDURES DESCRIBED IN SUBSECTIONS (5) AND (6) OF THIS SECTION APPLY.

(c) AS USED IN THIS SUBSECTION (7), "REVIEW" MEANS THE FACTUAL INSPECTION OF ANY DOCUMENT REQUIRED TO BE FILED WITH THE SECRETARY FOR CAMPAIGN FINANCE REGISTRATION, REPORTING, OR DISCLOSURE IN ORDER TO ASSESS THE DOCUMENT'S ACCURACY AND COMPLETENESS AND THE TIMELINESS OF THE DOCUMENT'S FILING.

(8) **Advisory opinions.** (a) ANY PERSON SEEKING GUIDANCE ON THE APPLICATION OF ARTICLE XXVIII, THIS ARTICLE 45, OR THE RULES MAY REQUEST THAT THE SECRETARY ISSUE AN ADVISORY OPINION REGARDING THAT PERSON'S SPECIFIC ACTIVITY.

(b) THE SECRETARY SHALL DETERMINE, AT THE SECRETARY'S DISCRETION, WHETHER TO ISSUE AN ADVISORY OPINION UNDER SUBSECTION (8)(a) OF THIS SECTION. IN MAKING THIS DETERMINATION, THE SECRETARY SHALL CONSIDER FACTORS INCLUDING WHETHER:

(I) THE ADVISORY OPINION WILL TERMINATE A CONTROVERSY OR REMOVE ONE OR MORE UNCERTAINTIES AS TO THE APPLICATION OF THE LAW TO THE REQUESTOR'S SITUATION;

(II) THE REQUEST INVOLVES A SUBJECT, QUESTION, OR ISSUE THAT CONCERNS A FORMAL OR INFORMAL MATTER OR INVESTIGATION CURRENTLY PENDING BEFORE THE SECRETARY OR A COURT; AND

(III) THE REQUEST SEEKS A RULING ON A MOOT OR HYPOTHETICAL QUESTION.

(c) A PERSON MAY RELY ON AN ADVISORY OPINION ISSUED BY THE SECRETARY AS AN AFFIRMATIVE DEFENSE TO ANY COMPLAINT FILED UNDER THIS SECTION.

(d) A REFUSAL BY THE SECRETARY TO ISSUE AN ADVISORY OPINION DOES NOT CONSTITUTE A FINAL AGENCY ACTION THAT IS SUBJECT TO APPEAL.

**(9) Miscellaneous matters - debt collection - municipal complaints.** (a) THE SECRETARY MAY SEND TO THE STATE CONTROLLER FOR COLLECTION ANY OUTSTANDING DEBT RESULTING FROM A CAMPAIGN FINANCE PENALTY THAT THE SECRETARY DEEMS COLLECTIBLE.

(b) ANY COMPLAINT ARISING OUT OF A MUNICIPAL CAMPAIGN FINANCE MATTER MUST BE EXCLUSIVELY FILED WITH THE CLERK OF THE APPLICABLE MUNICIPALITY.

**SECTION 2.** In Colorado Revised Statutes, 1-45-103.7, **amend** (7)(a) as follows:

**1-45-103.7. Contribution limits - treatment of independent expenditure committees - contributions from limited liability companies - voter instructions on spending limits - definitions.** (7) (a) Any person who believes that a violation of ~~subsection (5) or (6)~~ SUBSECTION (1.5), (5), OR (6) of this section has occurred may file a written complaint with the secretary of state ~~no later than one hundred eighty days after the date of the alleged violation.~~ The complaint shall be subject to all applicable procedures specified in section 9 (2) of article XXVIII of the state constitution IN ACCORDANCE WITH SECTION 1-45-111.7.

**SECTION 3.** In Colorado Revised Statutes, 1-45-109, **repeal** (4)(b), (4)(c), (11), and (12) as follows:

**1-45-109. Filing - where to file - timeliness - definition.** (4) (b) ~~Any report that is deemed incomplete by the appropriate officer must be accepted and the committee must be notified of the deficiency. If an e-mail address is on file with the secretary of state, the secretary of state may provide such notification by e-mail. The committee has thirty calendar days from the date such notice is sent, whether electronically or by United States mail, to file an addendum that cures the deficiencies.~~

(c) ~~(f) Upon receipt of a complaint brought under section 9 (2)(a) of article XXVIII of the state constitution alleging a failure to file other information required to be filed or disclosed pursuant to article XXVIII of the state constitution or this article 45, the secretary of state shall give notice to the committee by e-mail, or by regular mail if an e-mail address is not known, of the deficiencies alleged in the complaint. Service of the notice does not toll or otherwise affect the three-day period during which the secretary of state is required to refer a complaint to an administrative law judge pursuant to section 9 (2)(a) of article XXVIII of the state constitution. Upon receipt of the notice from the secretary of state, the committee may request from the appropriate officer a postponement of the hearing brought under section 9 (2)(a) of article XXVIII of the state constitution and, if such request is timely submitted, has fifteen business days from the date of the notice to file an~~

~~addendum to the relevant report that cures any such deficiencies in the disclosure specified in the notice. The committee shall also provide the complainant notice of the entity's intent to cure and a copy of the addendum on the same day that the addendum is filed with the secretary of state. Where the committee files an addendum that cures all deficiencies alleged in the complaint before the expiration of the fifteen-day period specified in this subsection (4)(c)(I), the appropriate officer shall not assess a penalty against the committee that otherwise would have been assessed for the deficiencies for the period from the first date of the alleged violation through the expiration of the cure period.~~

~~(H) Upon filing an addendum to the relevant report by the committee that cures all such deficiencies in accordance with subsection (4)(c)(I) of this section, the appropriate officer shall set a hearing within thirty days of the notice to determine whether all issues raised by the complaint have been resolved. If the committee fails to cure any such deficiency, any penalty imposed for the deficiency continues to accrue until further resolution of the matter. Notwithstanding any other provision of law, subsection (4)(c)(I) of this section only applies in the case of a good faith effort by a committee to make a timely disclosure in accordance with article XXVIII of the state constitution or this article 45 or where the disclosure made by the committee is in substantial compliance with such legal requirements. The committee has the burden of demonstrating good faith or substantial compliance under this subsection (4)(c)(H) by a preponderance of the evidence in the hearing held by the appropriate officer under section 9(2)(a) of article XXVIII of the state constitution. Where the committee fails to satisfy its burden of demonstrating either good faith or substantial compliance, the administrative law judge shall enter or impose a civil penalty in accordance with the following:~~

~~(A) If the amount of the penalty that has accrued to that point in time is less than five thousand dollars, the administrative law judge shall impose a penalty in the amount of the penalty that has accrued to that point in time.~~

~~(B) If the amount of the civil penalty that has accrued to that point in time is five thousand or more dollars, the administrative law judge shall impose a penalty, in his or her discretion, in an amount that is not less than five thousand dollars.~~

~~(11) Notwithstanding any other provision of this section, during the period commencing May 25, 2010, and continuing through December 31, 2010, any report, statement, or other document required to be filed under section 1-45-107.5 that is to be filed electronically with the secretary of state's office pursuant to this section may be filed manually or by means of a portable document format file acceptable to the secretary.~~

~~(12) For purposes of subsection (4)(c) of this section, "appropriate officer" means a hearing officer or an administrative law judge.~~

**SECTION 4.** In Colorado Revised Statutes, 1-45-111.5, **amend** (1.5)(a), (1.5)(b), (1.5)(c), (1.5)(d), (1.5)(e), (2), (3), and (4)(d)(II); and **repeal** (5) as follows:

**1-45-111.5. Duties of the secretary of state - enforcement - sanctions - definitions.** (1.5) (a) Any person who believes that a violation of ~~either~~ ARTICLE XXVIII OF THE STATE CONSTITUTION, the secretary of state's rules concerning

campaign and political finance or this article 45 has occurred may file a written complaint with the secretary of state not later than one hundred eighty days after the date of the occurrence of the alleged violation. The complaint is subject to all applicable procedures specified in section 9 (2) of article XXVIII of the state constitution. The person filing the complaint must serve the complaint on the respondent by certified mail, return receipt requested, on the same day the person files the complaint with the secretary of state. The person filing the complaint must state factual allegations of a violation. For purposes of this section and section 9 (2) of article XXVIII of the state constitution, "complaint" means a signed document that alleges a violation of article XXVIII of the state constitution or of this article 45 IN ACCORDANCE WITH SECTION 1-45-111.7.

(b) Any person who commits a violation of either the secretary of state's rules concerning campaign and political finance or this article that is not specifically listed in section 9 (2)(a) of article XXVIII of the state constitution shall be subject to any of the sanctions specified in section 10 of article XXVIII of the state constitution or in this section.

(c) In addition to any other penalty authorized by article XXVIII of the state constitution or this article, ~~an administrative law judge~~ ARTICLE 45, A HEARING OFFICER may impose a civil penalty of fifty dollars per day for each day that a report, statement, or other document required to be filed under this article ARTICLE 45 that is not specifically listed in article XXVIII of the state constitution is not filed by the close of business on the day due. Any person who fails to file three or more successive committee registration reports or reports concerning contributions, expenditures, or donations in accordance with the requirements of section 1-45-107.5 shall be subject to a civil penalty of up to five hundred dollars for each day that a report, statement, or other document required to be filed by an independent expenditure committee is not filed by the close of business on the day due. Any person who knowingly and intentionally fails to file three or more reports due under section 1-45-107.5 shall be subject to a civil penalty of up to one thousand dollars per day for each day that the report, statement, or other document is not filed by the close of business on the day due. Imposition of any penalty under this ~~paragraph (e)~~ SUBSECTION (1.5)(c) shall be subject to all applicable requirements specified in section 10 of article XXVIII of the state constitution governing the imposition of penalties.

(d) In connection with a complaint brought to enforce any requirement of article XXVIII of the state constitution or this article, ~~an administrative law judge~~ ARTICLE 45, A HEARING OFFICER may order disclosure of the source and amount of any undisclosed donations or expenditures.

(e) In connection with any action brought to enforce any provision of article XXVIII of the state constitution or this article ARTICLE 45, the membership lists of a MEMBERSHIP ORGANIZATION, A labor organization or, in the case of a publicly held corporation, a list of the shareholders of the corporation, shall not be disclosed by means of discovery or by any other manner.

(2) A party in any action brought to enforce the provisions of article XXVIII of the state constitution or of this article 45 is entitled to the recovery of the party's reasonable attorney fees and costs from any attorney or party who has brought or

defended the action, either in whole or in part, upon a determination by the ~~office of administrative courts~~ HEARING OFFICER that the action, or any part thereof, lacked substantial justification or that the action, or any part thereof, was commenced for delay or harassment or if it finds that an attorney or party unnecessarily expanded the proceeding by other improper conduct, including abuses of discovery procedures available under the Colorado rules of civil procedure. Notwithstanding any other provision of this subsection (2), no attorney fees may be awarded under this subsection (2) unless the court or ~~administrative law judge~~ HEARING OFFICER, as applicable, has first considered and issued written findings regarding the provisions of section 13-17-102 (5) and (6). Either party in an action in which the ~~office of administrative courts~~ HEARING OFFICER awarded attorney fees and costs may apply to a district court to convert an award of attorney fees and costs into a district court judgment. Promptly upon the conversion of the award of attorney fees and costs into a district court judgment, the clerk of the district court shall mail notice of the filing of the judgment to the judgment debtor at the address given and shall make a note of the mailing in the docket. The notice must include the name and post-office address of the judgment creditor and the judgment creditor's lawyer, if any, in this state. In addition, the judgment creditor may mail a notice of the filing of the judgment to the judgment debtor and may file proof of mailing with the clerk. Lack of mailing notice of filing by the clerk shall not affect the enforcement proceedings if proof of mailing by the judgment creditor has been filed. For purposes of this subsection (2), "lacked substantial justification" means substantially frivolous, substantially groundless, or substantially vexatious.

(3) Upon a determination by the ~~office of administrative courts~~ HEARING OFFICER that an issue committee failed to file a report required pursuant to section 1-45-108, the ~~administrative law judge~~ HEARING OFFICER shall direct the issue committee to file any such report within ten days containing all required disclosure of any previously unreported contributions or expenditures and may, in addition to any other penalty, impose a penalty not to exceed twenty dollars for each contribution received and expenditure made by the issue committee that was not timely reported.

(4) (d) If the court determines that the subpoenaed witness or party is required to comply with the administrative subpoena:

(II) The ~~administrative law judge~~ HEARING OFFICER shall schedule a hearing on the complaint to occur on a day after the occurrence of the required deposition and such other discovery as may be warranted due to such deposition.

(5) ~~Not later than December 1, 2016, the secretary of state shall create and post on the secretary's official website a campaign finance training course that offers sufficient content to satisfy the training requirements for administrative law judges that is required by section 24-30-1003 (6), C.R.S.~~

**SECTION 5.** In Colorado Revised Statutes, 24-30-1003, **repeal** (6) as follows:

**24-30-1003. Administrative law judges - appointment - qualifications - standards of conduct.** (6) ~~On and after January 1, 2017, before hearing a complaint that has been filed with the office of administrative courts in accordance with section 9 (2) of article XXVIII of the state constitution, an administrative law judge shall complete four credit hours of continuing legal education courses that~~

~~have been certified by the Colorado supreme court. The four credit hours of legal education must be substantially related to election or campaign finance law. An administrative law judge who hears campaign finance complaints must obtain the four credit hours on an annual basis. An administrative law judge may satisfy the requirements of this subsection (6) by completing the campaign finance training course that is offered on the secretary of state's website pursuant to section 1-45-111.5 (5), C.R.S.~~

**SECTION 6. Effective date - applicability.** (1) This act takes effect July 1, 2019, and applies to complaints filed with the secretary of state on or after said date.

(2) Section 1-45-103.7 (7)(a), Colorado Revised Statutes, as amended in section 1 of House Bill 19-1007, does not take effect if this act, Senate Bill 19-232, becomes law.

**SECTION 7. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 29, 2019